

# ***EXHIBIT 5***



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Kenny Golladay - Statement for the Record  
December 3, 2020

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Clarity Sports International, LLC, et al.

vs.

CAA Sports, et al.

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF PENNSYLVANIA

CLARITY SPORTS INTERNATIONAL, LLC,  
and JASON BERNSTEIN,

Plaintiffs,

vs.

Case No. 1:19-cv-00305-YK

CAA SPORTS, et al.,

Defendants.

Videoconference Statement for the Record

December 3, 2020  
10:20 a.m.

Stephanie R. Dean, RPR

1 REMOTE APPEARANCES:

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19 ALSO PRESENT:

20 Jason Bernstein

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1	I N D E X	
2	EXHIBITS	
3	Exhibit 1 - Notice	4
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1 P R O C E E D I N G S - (Remote)

2 - - - - -

3 MR. COMERFORD: This is John Comerford  
4 representing Plaintiffs Clarity Sports  
5 International, LLC and Jason Bernstein. The time  
6 is 10:21 Eastern time on December 3rd. We are here  
7 for a videotaped deposition of third-party witness  
8 Kenny Golladay, who is a wide receiver in the  
9 National Football League. Mr. Golladay was served  
10 with a subpoena and has not shown up yet for the  
11 deposition, so I'd like to enter a few exhibits,  
12 and I can share my screen.

13 (Thereupon, Exhibits 1 through 3 were marked for  
14 purposes of identification.)

15 MR. COMERFORD: So Exhibit 1 is the Notice  
16 of Subpoena to Mr. Golladay dated November 2nd  
17 2020. That will be Exhibit 1. Exhibit 2 is the  
18 subpoena to Mr. Golladay, 92 pages, and it says  
19 that the deposition will be conducted by video  
20 conference, and we did that because of the COVID-19  
21 pandemic and the travel restrictions and social  
22 distancing requirements. The date and time is  
23 December 3, 2020 at 10:00 a.m. Eastern time, and it  
24 says the deposition will be recorded by stenography  
25 and video, and it's dated November 2nd.

1           Exhibit 3 is the return that we got from  
2     the process server. His name is Robert Lutren,  
3     L-u-t-r-e-n. And Mr. Lutren served Mr. Golladay on  
4     November 3rd 2020. Mr. Lutren writes: I served  
5     the subpoena by delivering a copy to the named  
6     individual as follows, by corporate counsel, Jay  
7     Colvin, lawyer for Detroit Lions organization as  
8     agent authorized due to COVID, new procedure, see  
9     attached letter on November 5th 2020, 12:01, p.m.,  
10    and that's signed by Mr. Lutren. And then under  
11    Additional Information, Mr. Lutren writes:  
12    Informed if I go near Mr. Golladay, he would be  
13    forced to go into quarantine. And then the fourth  
14    page of Exhibit 3 is a letter dated Thursday,  
15    November 5, 2020, which reads: On Thursday,  
16    November 5, 2020, I, Kenneth Golladay, authorize  
17    Jay Colvin to accept and receive service of process  
18    on my behalf, signed Kenneth Golladay. That's  
19    Exhibit 3.

20           So I subsequently had a phone conversation  
21    with Mr. Colvin in which he informed me that he had  
22    received a subpoena, that he would speak with  
23    Mr. Golladay about it. Mr. Colvin stated that he  
24    would like to coordinate Mr. Golladay's appearance  
25    with Mr. Golladay's agent. I told him the agent

1 was Todd France. Mr. Colvin then said: Well, can  
2 I have the contact information for Mr. France's  
3 attorneys, and I provided that information to  
4 Mr. Colvin by email. Mr. Colvin emailed me  
5 subsequently and stated that he had left a message  
6 for William Clements.

7 At this time I would ask Mr. Clements to  
8 explain his --

9 MR. COOPER: Can we get the emails that  
10 you're referring to?

11 MR. COMERFORD: I do. I'm not going to  
12 enter them as exhibits, but we'll make them  
13 available after -- if Mr. Golladay doesn't show up  
14 today, which appears to be the case, we'll make  
15 those available.

16 MR. COOPER: Why can't we get them today?

17 MR. COMERFORD: You can have them today.  
18 I'll send them to you.

19 Mr. Clements, could you explain what  
20 Mr. Colvin said to you, please?

21 MR. CLEMENTS: What's the point of it?  
22 What does it matter? I already told you, but I'll  
23 put it on the record. I didn't talk to him. It's  
24 true, Mr. Colvin, who I got a voice message -- I  
25 can't remember when. It was subsequent to -- well,



1 first, let me say this: We did receive the  
2 subpoena for Golladay. I'm not aware that anybody  
3 filed any objections to the subpoena. We did  
4 receive from Mr. Comerford -- an email from  
5 Mr. Comerford, something to the effect they were  
6 able to serve Mr. Golladay. I haven't seen these  
7 documents you're putting in as exhibits. It  
8 doesn't really matter. So we were anticipating  
9 that this deposition was going to take place today.  
10 We want to participate in the deposition, but it's  
11 not our deposition. I did, I think, after all this  
12 receive some call from someone from the Detroit  
13 Lions. I referred that call -- I didn't call them  
14 back, I referred that call to my co-counsel,  
15 Mr. Iaconelli, and my understanding of whatever the  
16 call was was basically what Mr. Comerford just  
17 said, that Mr. Colvin had accepted service on  
18 behalf of Mr. Golladay. Fine. That's not our  
19 issue. There really wasn't any talk about  
20 coordinating a deposition, nor would I do that  
21 because it's not my deposition to coordinate, so  
22 that was it. I don't remember anything being  
23 talked about about Todd France or that being  
24 communicated to me.

25 So at this point it's 10:30, we're not

1     sure whether the witness is going to show up. I  
2     always had some practical doubts as to whether the  
3     witness is going to show up for a deposition on  
4     Thursday before a Sunday NFL game, because  
5     typically Thursday is the most important practice.  
6     So my suggestion is at this point Mr. Comerford put  
7     what he wanted into the record. I assume he wants  
8     to do that because he's going to try to enforce the  
9     subpoena against Mr. Golladay. Again, that's not  
10    our issue, that's between him and Mr. Golladay.  
11    And I would suggest that we adjourn, with the  
12    understanding that if Mr. Golladay calls in to the  
13    court reporter, they can stay online, if you want  
14    to pay them, we'll be contacted, and then we'll  
15    proceed from there. And if he doesn't, you're  
16    going to have to go to the courts with the subpoena  
17    or we'll reschedule this some other time. I don't  
18    think anybody wants to stay on this video call, you  
19    know, and bill our clients until there's actually  
20    something to do. I, myself, am going to exit this  
21    and then I'll trust that everybody will have their  
22    ethics in place to contact me if the deposition is  
23    starting up again.

24               MR. COMERFORD: So before you leave,  
25    Mr. Clements, I would ask Mr. Iaconelli to

1 please --

2 MR. CLEMENTS: We're not saying anything,  
3 John. I just told you so that's it. Mr. Iaconelli  
4 is -- none of us are under oath. It doesn't matter  
5 what Mr. Colvin said. The only thing that  
6 Mr. Colvin -- that matters with Mr. Colvin is that  
7 he said he accepted the subpoena for Golladay. We  
8 have zero obligation to coordinate your third-party  
9 deposition, just like you have zero obligation to  
10 coordinate our third-party depositions. I would  
11 have assumed that you had your ducks in a row.  
12 We're ready. Everybody is here. We prepared for  
13 it. I already spent time that I'm never going to  
14 be able to get back. This is not my problem. It's  
15 not Mr. Iaconelli's problem, it's not Mr. Cooper's  
16 problem, and it's not Mr. Herber's problem. So,  
17 no, we put it on the record and that's it. You're  
18 not questioning us, okay? If you want to go  
19 enforce the Golladay subpoena, go enforce the  
20 Golladay subpoena.

21 MR. COMERFORD: I'm asking that  
22 Mr. Iaconelli please explain his communications  
23 with Mr. Colvin.

24 MR. CLEMENTS: You can ask him. He's on  
25 the call. If he wants to explain it, he can

1 explain it. We have no obligation to explain  
2 anything to you. What is your point? What is your  
3 point, Mr. Comerford? Are you making an accusation  
4 against me and my law firm and my co-counsel? If  
5 you are, put it on the record so I can bring it to  
6 the attention of the judge. Put your accusation on  
7 the record.

8 MR. COMERFORD: I'm going to say something  
9 and I would like to be able to say it without being  
10 interrupted. What I want to say is this: I am  
11 requesting that Mr. Iaconelli describe on the  
12 record his communications with Jay Colvin about  
13 this deposition.

14 MR. CLEMENTS: I will say, Mr. Iaconelli,  
15 if you're there, if you want to do it, or did I  
16 adequately sum up the conversation? Is he even  
17 here?

18 MR. COMERFORD: The Zoom application that  
19 we're using indicates that Mr. Iaconelli is on the  
20 line but muted, and you previously said, I believe,  
21 Bill, that Mr. Iaconelli is on the line.

22 MR. CLEMENTS: John, you're very  
23 prosecutory. You should come with the Fifth  
24 Amendment, anything you say can and will be used  
25 against you. I am sitting in my dining room in the

1     suburbs of Philadelphia. Mr. Iaconelli is in New  
2     Jersey. I have no idea if he's on the line or not.  
3     I mean, I'm seeing the same thing on Zoom as you,  
4     I'm seeing a blank screen. I don't see any video  
5     for him.

6             MR. COMERFORD: I see a screen that says  
7     M. Iaconelli.

8             MR. CLEMENTS: Yeah, I see the same thing  
9     as you.

10            MR. COMERFORD: So I'm asking  
11     Mr. Iaconelli to speak up --

12            MR. CLEMENTS: Let's go off the record a  
13     minute. I have to take this call. Off the record.

14                     (Short recess.)

15            MR. CLEMENTS: Sorry about that. Two  
16     things -- well, one thing. The other was from my  
17     other case. Can everybody hear me?

18            MR. COMERFORD: Yes.

19            MR. CLEMENTS: Because it's somewhat  
20     uncharacteristic for Michael not to speak when  
21     we're talking on the record when we ask him, I  
22     called him up. He's having some -- he can hear us,  
23     but he's having difficulty with the audio, so I  
24     don't know what the issue is.

25            MR. COMERFORD: Let's go back on the

1 record, please.

2 THE REPORTER: We are on the record.

3 MR. CLEMENTS: We are on the record. He's  
4 having difficulty with the audio, so I don't know  
5 what -- if you want to call him up and ask him,  
6 fine, if you want to talk to Colvin, but basically  
7 he was listening, he said that's about the gist of  
8 it, which is all I know, I wasn't on the call, and,  
9 you know, Colvin discussed service, he wanted to  
10 know if we were aware of the deposition, which we  
11 were, because, like I said, we got the subpoena and  
12 the email from Mr. Comerford that it was served,  
13 and, you know, he said that he had several --  
14 however many emails and communications with  
15 Mr. Comerford about the Golladay deposition, so --  
16 again, I don't know what the relevancy of any of  
17 this is. It seems like what your issue is is  
18 you've got to enforce that subpoena against the  
19 third-party or get the third-party to show up. The  
20 more pressing issue, I think, for all of us is how  
21 long are we going to be doing this? It's already  
22 been 40 minutes and we've basically accomplished  
23 zero here.

24 MR. COMERFORD: Can Pohlman record video  
25 of the gallery view of the participants?

1 MR. CLEMENTS: And what's the point, John?

2 MR. COMERFORD: That's not a question for  
3 you, Mr. Clements.

4 MR. CLEMENTS: I will stipulate that  
5 Mr. Iaconelli is -- he's on there. He just says he  
6 has technical difficulty. Why don't you walk him  
7 through -- I don't know what he's doing. If I  
8 click on the -- I mean, all I know is there's a  
9 blue box mute and unmute. It works for me.

10 MR. COMERFORD: There's a dial-in. If  
11 your computer doesn't work, there's a dial-in where  
12 you can call in by phone. The number is  
13 1-877-853-5257, and then the pass code is 656493.  
14 The meeting ID, if you need it, is 93441466647. So  
15 I would ask Mr. Iaconelli to dial in by telephone.

16 MR. COOPER: John, this is Iles --

17 MR. CLEMENTS: What are you going to do?  
18 Are you going to use your special prosecutorial  
19 powers to throw him in jail? I mean, what's the  
20 difference? We're wasting all our time. You  
21 understand this is just a lawsuit over a tortious  
22 interference claim? You also understand that  
23 sometimes third-party witnesses don't show up.  
24 Whatever conversations that anybody has -- Colvin,  
25 he didn't say he represented Golladay and we don't

1 represent Golladay, so what's the difference? I  
2 mean, what are you asking about? It's like, you  
3 know, go get the third party to show up. It  
4 happens quite frequently. I don't know how long  
5 you've been litigating, but third parties don't  
6 show up. Usually, though, the attorney that's  
7 noticing the deposition has the common sense and  
8 courtesy to tell everybody before, if they haven't  
9 heard from the witness, that the deposition is not  
10 going to take place so we're not wasting our time  
11 like we are here. And, if anything, you owe me an  
12 hour. You. You and your firm and your client owe  
13 me whatever my billable rate is this hour for  
14 wasting my time.

15 MR. COMERFORD: I sent Mr. Iaconelli the  
16 telephone dial-in information. Hopefully that can  
17 fix his audio issues.

18 MR. COOPER: John, what's the purpose of  
19 all this?

20 MR. CLEMENTS: Who knows?

21 MR. COMERFORD: I'm trying to make a  
22 record of what transpired in the days before this  
23 deposition.

24 MR. COOPER: Respectfully, John, that has  
25 nothing to do with this deposition.



1 MR. CLEMENTS: It has nothing to do with  
2 the case. If you want to make an accusation, make  
3 an accusation. If you want to go to court like  
4 Rudy Giuliani and tell the judge that we're doing  
5 something, go ahead, Mr. Comerford, okay? It's  
6 like you're really over-litigating this case. It's  
7 like everything with you is if you don't get what  
8 you want exactly when you want it, you cry about it  
9 and it's like some sort of conspiracy. I've  
10 never -- if someone would have told me I was still  
11 litigating this after that NFLPA arbitration, I  
12 would tell them they were nuts. It's like your  
13 client must have an unlimited budget for this stuff  
14 or something.

15 MR. COOPER: John, why don't you just call  
16 Colvin and ask him if Golladay is going to show?

17 MR. COMERFORD: I sent an email to him.

18 MR. COOPER: And what's the response?

19 MR. COMERFORD: There has been no  
20 response.

21 MR. CLEMENTS: Then why don't you have him  
22 come on and put on the record what he did? I mean,  
23 he's the guy you're dealing with, it's not us. We  
24 have nothing to do with it. We're a third party.  
25 You told me to come to a deposition, I'm at a

1 deposition, for a third-party deposition.

2 MR. COOPER: John, is there any reason not  
3 to shut this down now?

4 MR. CLEMENTS: At some point I think I'm  
5 going to call the judge, you know, about this  
6 because this is really getting to be -- maybe we  
7 should because this is really getting to be  
8 ridiculous.

9 MR. COMERFORD: I would welcome that.

10 MR. CLEMENTS: Go ahead, dial it. Go  
11 ahead, call her.

12 MR. COMERFORD: You said you were going to  
13 call the judge and I said I welcome that.

14 MR. CLEMENTS: I'm not going to look for  
15 the number, but go ahead and call and maybe we can  
16 resolve this, otherwise, we're going to be sitting  
17 here all day.

18 MR. COOPER: John, do you consider we're  
19 at a deposition? Is that the status we're at?

20 MR. CLEMENTS: To cross-examine all  
21 counsel.

22 MR. COOPER: I'm asking John. Are we in  
23 the middle of a deposition, John?

24 MR. COMERFORD: We're on the record and  
25 we're waiting for the witness to arrive, and I'm

1     trying to make a record of what we've done to try  
2     to get the witness here, and I'm also trying to  
3     make a record that counsel for CAA Sports and two  
4     of the three memorabilia dealer defendants had  
5     contact with the person who accepted service, and I  
6     think that that should be explained.

7             MR. CLEMENTS: We already explained it to  
8     you. And, number two, if your accusation is that  
9     we're somehow blocking or preventing or told  
10    Golladay not to show up, that's incorrect, we did  
11    not. We're here ready for this deposition. If  
12    that's what your allegation is, if that's what  
13    you're attempting to prove, you're never going to  
14    be able to prove it, okay? If you're trying to say  
15    legally, Mr. Comerford, that we have some  
16    obligation to affirmatively go out and procure the  
17    attendance of a third-party witness that you  
18    subpoenaed and arrange for the deposition, that's  
19    not correct. It's your deposition. You organized  
20    it with the court reporter, you served the guy,  
21    you're saying. It's your obligation to make sure  
22    the witness is here, and you're being an  
23    obstructionist right now by keeping this deposition  
24    open unless you can tell us for sure that the  
25    witness is going to show up. Or as was my

1 suggestion is that we just simply go off the  
2 record, have the court reporter wait, it's on your  
3 dime, and if Mr. Golladay calls back in, she can  
4 contact all of us and we can hop right back on.  
5 I'm going to be sitting right in this very spot  
6 working all day. I assume Mr. Cooper and  
7 Mr. Herber will be doing the same thing. What  
8 Mr. Iaconelli is doing, I don't know. I was  
9 planning on attending this deposition. I didn't  
10 even know he was going to be on the deposition,  
11 just like I'm planning on doing Bernstein's  
12 tomorrow, so what are we doing here?

13 MR. COMERFORD: I'm asking one more time  
14 for Mr. Iaconelli to speak up. He is attending  
15 this deposition by video, as indicated in this Zoom  
16 application. He has the telephone dial-in  
17 information if his computer audio is not working.  
18 I'm asking Mr. Iaconelli to explain his  
19 communications with Jay Colvin about this  
20 deposition.

21 MR. COOPER: John, you haven't explained  
22 yours. I don't know that you're obligated to. The  
23 idea that we should conduct an inquisition -- I  
24 guess we'll get around to asking the court reporter  
25 what she did or did not do. This is insane. You

1 subpoenaed a witness. The party you went through  
2 has obviously failed to do his part, if you  
3 expected Mr. Colvin is it, to produce the witness.  
4 We've don't have Colvin. We don't have the  
5 witness. What are we doing here?

6 MR. COMERFORD: Well, we have  
7 acknowledgement from Mr. Clements that  
8 Mr. Iaconelli had conversations with Mr. Colvin  
9 about this deposition and I would like  
10 Mr. Iaconelli to state the content of that  
11 conversation. I've done that with respect to my  
12 communications with Mr. Colvin and I would like  
13 Mr. Iaconelli to do the same.

14 MR. COOPER: Why has Colvin become the new  
15 center of the memorabilia case? Is he a  
16 memorabilia dealer, too? Do we have pictures of  
17 him and Todd France and Jake Silver and Jimmy  
18 Martin? Did we ever find out who was in those  
19 wedding pictures, by the way? Those are cute.  
20 Well, I'm getting off in two minutes. It's 10:48  
21 here.

22 MR. CLEMENTS: We'll give it until 11. I  
23 don't know if he's hearing it now or what's going  
24 on. Who know? These Internet things are -- all I  
25 know is I'm never getting this hour of my life

1 back.

2 MR. COOPER: I tried to avoid this problem  
3 by inviting everybody to Pottsville, which is one  
4 of the finest places on earth.

5 MR. CLEMENTS: Let's go off the record  
6 until something happens or doesn't happen, as the  
7 case may be.

8 (Short recess.)

9 MR. CLEMENTS: I'm trying to figure out a  
10 technical work around, and the best one I can  
11 figure is apparently -- I don't know what's going  
12 on, but I'm going to call Mr. Iaconelli and have  
13 him on the speakerphone and hopefully we'll be able  
14 to communicate and get this over with, all right?  
15 Is everybody back?

16 MR. COMERFORD: This is John Comerford,  
17 I'm here.

18 MR. CLEMENTS: Iles, J.T.?

19 MR. COOPER: Present.

20 MR. IACONELLI: Hello.

21 MR. CLEMENTS: Michael, I have you. We're  
22 on the record. I just explained to them you're  
23 having some technical problems, so hopefully  
24 everybody will be able to hear. We'll see here if  
25 the court reporter can hear you. Go ahead.

1 MR. IACONELLI: Can the court reporter  
2 hear me?

3 THE REPORTER: Yes.

4 MR. IACONELLI: I just want to make  
5 certain that everyone received the email that I  
6 sent a while ago, because I did log on through the  
7 Pohlman service and I see people speaking through  
8 the computer, but my computer will not allow me to  
9 unmute so that I can speak, so I sent an email to  
10 all of the lawyers to inform them of that. I've  
11 been listening to the accusations that  
12 Mr. Comerford has been making, so go ahead, John,  
13 ask your question and I'll respond as appropriate.

14 MR. COMERFORD: My question,  
15 Mr. Iaconelli, is can you describe the content of  
16 your communications with Jay Colvin about  
17 Mr. Golladay's deposition today?

18 MR. IACONELLI: Okay. Mr. Clements  
19 already did that on the record, Mr. Comerford.  
20 What else are you asking me as counsel to party  
21 defendants in this case concerning a third-party  
22 subpoena that you sent to a third party whom we do  
23 not represent and whom I informed you last night  
24 via email we have not communicated with?

25 MR. COMERFORD: My question is: Can you

1 tell me about your communications with Mr. Colvin  
2 about whether Mr. Golladay would attend the  
3 deposition today?

4 MR. IACONELLI: I'll repeat it one more  
5 time. Mr. Clements already did that. So now my  
6 question back to you is the same question you put  
7 to me. Please describe for us the substance of all  
8 of your telephonic communications with Mr. Colvin,  
9 how many you had, on what dates you had them, and  
10 what specifically you said to him and he said to  
11 you in response concerning this subpoena that  
12 you've indicated on the record today he  
13 acknowledged service of on behalf of Kenny  
14 Golladay?

15 MR. COMERFORD: I have already done this.  
16 It's on the record. I had one phone conversation  
17 with Mr. Colvin. I believe it was on  
18 November 13th, and Mr. Colvin told me that he would  
19 contact your office, and then Mr. Colvin told me  
20 that he had left a message for Mr. Clements.

21 MR. CLEMENTS: That's true, he left a  
22 message for me.

23 MR. COMERFORD: And then Mr. Clements said  
24 that you, Mr. Iaconelli, had conversations with Jay  
25 Colvin, so...



1 MR. CLEMENTS: I didn't say conversations  
2 with an "S." I said I forwarded the message to  
3 Michael and Michael talked to him. I don't know  
4 how many conversations they had.

5 MR. COMERFORD: Right. And so we haven't  
6 gotten any description of the conversation between  
7 Mr. Colvin and Mr. Iaconelli.

8 MR. CLEMENTS: Hold on, Michael. Let him  
9 speak.

10 MR. IACONELLI: Mr. Comerford, is there  
11 anything else that you want to add concerning what  
12 you are describing was the substance of your  
13 telephone conversation with Mr. Colvin?

14 MR. COMERFORD: I think I described it  
15 earlier.

16 MR. CLEMENTS: Did you characterize the  
17 case? Did you explain what the case was about?  
18 Did you characterize your position? I mean --

19 MR. COMERFORD: He had the subpoena. The  
20 subpoena has the complaint attached. I believe I  
21 noted that fact and I said "You can read it." I  
22 told him it was a tortious interference case  
23 between my clients and the defendants.

24 But what I'm still waiting to hear is  
25 whether Mr. Iaconelli had any communications with

1 Mr. Colvin about whether or not Mr. Golladay would  
2 attend this deposition today.

3 MR. IACONELLI: ...just like you  
4 advocated --

5 THE REPORTER: I didn't get the first  
6 part.

7 MR. IACONELLI: -- with Arbitrator Kaplan  
8 at the initiation of your first grievance without  
9 including Mr. Clements or me in that initial  
10 conversation with the arbitrator. There seems to  
11 be a practice here, Mr. Comerford, of you engaging  
12 in ex parte communications with third parties and  
13 not including opposing counsel on those  
14 communications. Remember, you initiated the call  
15 with Mr. Colvin. That's what you said on the  
16 record today. I didn't initiate a call with  
17 Mr. Colvin, I returned a phone call. He asked for  
18 a returned call. We extended him the courtesy of  
19 the returned call.

20 So there's one other thing. Why are you  
21 not providing immediately the emails that you  
22 acknowledged at 9:30 that you exchanged with  
23 Mr. Colvin summarizing your communications with him  
24 regarding this deposition today? Why are you not  
25 producing them right now?

1 MR. COMERFORD: I have said that I will --

2 MR. IACONELLI: ...right now while we're  
3 on the record because I want to question you about  
4 them.

5 MR. COMERFORD: Because I can't do that  
6 while we're in the middle of the deposition on the  
7 record, but I will send them around to all  
8 attorneys in this case.

9 MR. IACONELLI: ...while we're on the call  
10 right now, Mr. Comerford. He's your co-counsel.  
11 Have Mr. Martin forward them to us immediately  
12 because we want to interrogate you about these  
13 ex parte communications that you had with a lawyer  
14 for the Detroit Lions where you made certain  
15 representations that we would like to question you  
16 about.

17 MR. COMERFORD: I had to do something to  
18 set up this deposition. I think we all recognize  
19 that.

20 MR. CLEMENTS: I think the issue -- I  
21 think the issue --

22 MR. COMERFORD: May I ask --

23 MR. CLEMENTS: We're sick of listening to  
24 you, John. I think what the issue is -- Michael is  
25 being a little facetious. This is not a contest

1 between lawyers and who exchanged emails with who  
2 and what's going on and adverse inferences and this  
3 and that, it's about facts. Golladay is a fact  
4 witness, okay. I'm sure we would all like to have  
5 Golladay testify. I don't understand the point of  
6 any of this, of us asking each other about our  
7 communications with Colvin. They're not  
8 admissible, they're not relevant to anything that's  
9 in this case. You said it's a tortious  
10 interference case. We're right now wasting  
11 everybody's time. Michael, please, let's get off  
12 this call. So I'm going to ask you, is there  
13 anything that hasn't been said about the call, and  
14 this isn't a deposition or anything, but just to  
15 satisfy Mr. Comerford's morbid curiosity and his  
16 conspiracy theory fantasies about everything going  
17 on in the case, is there anything you can recall  
18 about your call with Mr. Colvin about how long it  
19 was and anything else that wasn't said just so we  
20 can end this foolishness?

21 MR. IACONELLI: I think you've already  
22 characterized and summarized the substance of my  
23 conversation with Mr. Colvin. I want to be very  
24 clear about something. What I am objecting to is  
25 the manner in which I believe Mr. Comerford is

1     trying to make the lawyers in this case fact  
2     witnesses. It's very presumptuous and transparent.  
3     We're objecting to it. As far as the timing of  
4     this deposition is concerned, that's something else  
5     stated on the record. You know, Mr. Comerford,  
6     you're making the argument that you're somehow  
7     being precluded from moving forward with the  
8     deposition that you noticed for the first time on  
9     November 3rd to occur on December 3rd. The reality  
10    is that we had a meeting to confer with you back in  
11    May of '18 -- May 2019, excuse me, where all  
12    defense counsel recommended to you, in fact urged  
13    you, to notice the deposition of Kenny Golladay  
14    first, to occur first, so that all these issues  
15    could be resolved and the witness could go on  
16    record and address the substantive issues that were  
17    pending at that time. You told all counsel that  
18    you weren't going to do that, you were going to  
19    take discovery in the timing and sequence that you  
20    deemed to be appropriate. In fact, you opposed our  
21    motion to stay and to bifurcate discovery so that  
22    Mr. Golladay's deposition could be taken first. So  
23    to suggest now on December 4th, after only reaching  
24    out to us for the first time on the late evening of  
25    December -- today is December 3rd -- after only

1 reaching out for the first time on the evening of  
2 December 2nd that you haven't confirmed this  
3 deposition of the witness. We have been  
4 encouraging you to depose him since the summer of  
5 2019 and it's transparent and the record should  
6 reflect that. So there's nothing else that I'm  
7 going to add. If you want to bring a motion, bring  
8 an appropriate motion. If you want to challenge  
9 what's been represented today, challenge it, but we  
10 are not becoming fact witnesses in this case. I  
11 believe that that's what your intention is. We're  
12 not going to cooperate with you in that regard.  
13 We're not parties to this case. And if you want to  
14 proceed in that fashion, do what you think you need  
15 to do and we will respond appropriately.

16 MR. CLEMENTS: I guess, John, if you want  
17 to involve the lawyers, then we'll all start  
18 deposing each other and trying cases against each  
19 other, and both our firms will be disqualified from  
20 being trial counsel and then that will be that,  
21 right? You can get some other lawyer to represent  
22 Bernstein and -- I guess Iles Cooper would be the  
23 last guy standing. So this is foolishness. It's  
24 just complete and utter foolishness and a waste of  
25 time.

1 I apologize for the noise in the  
2 background. That's my air-conditioning guys doing  
3 work.

4 So the question remains at this point,  
5 what are we going to do? It is now 11:02. I think  
6 we can probably say that the witness is not going  
7 to appear. I understand that there is a motion to  
8 extend discovery pending -- I'm not sure what the  
9 status of it is, if it's been granted or what  
10 happened with it. We still have, even without  
11 that, until the end of December if you can get --  
12 procure the witness' attendance, but I just don't  
13 see the point of continuing on with this -- with  
14 all of us on the line sitting around waiting until  
15 somebody may or may not show up and arguing with  
16 one another when it has nothing to do with  
17 anything. You know, arguments of lawyers are  
18 arguments of lawyers. They have nothing to do with  
19 one thing or the other. So what are we going to  
20 do? My vote is adjourn. It's Mr. Comerford's  
21 deposition. I think it's his responsibility to  
22 deal with the court reporter and pay the court  
23 reporter to stay on the line and wait for  
24 Mr. Golladay to show up and then she can contact  
25 all counsel if he does, in fact, log on. I think

1     that probably if he doesn't log on by 5:00 p.m. or  
2     4:00 p.m., I guess we can probably assume that the  
3     deposition is not going to go forward, but I don't  
4     think that it's our responsibility to sit here and  
5     wait for a deposition that we didn't subpoena the  
6     witness and had nothing to do with setting up and  
7     bill our clients for it. I'm open to suggestions  
8     from anybody else as to how to handle this.

9             What are we going to do?

10            MR. COOPER: John, what's your pleasure?  
11     Do you want to continue to sit here and wait for  
12     Mr. Godot?

13            MR. COMERFORD: Did you mean to say  
14     Mr. Golladay?

15            MR. COOPER: No, I meant to say Mr. Godot,  
16     waiting for Godot.

17            MR. COMERFORD: Like the play?

18            MR. COOPER: Like the play.

19            MR. COMERFORD: Samuel Beckett?

20            I am not going to ask the court reporter  
21     to stay on the record. We're one hour and  
22     four minutes past the appointed time. I cannot get  
23     Mr. Colvin to respond to me, so at this point I'm  
24     going adjourn the deposition because the witness is  
25     not here. I think I've made a record and we're



1 going to proceed accordingly.

2 MR. CLEMENTS: Hold on. I unfortunately  
3 had my microphone muted. Mr. Iaconelli has  
4 something to say. Sorry. I'm dealing with two  
5 electronic devices here. It's one too many for me.

6 MR. IACONELLI: Madam Court Reporter, can  
7 you hear me? This is Mike Iaconelli speaking.

8 THE REPORTER: Yes.

9 MR. IACONELLI: Mr. Comerford, did  
10 Mr. Colvin tell you that my law firm was  
11 representing Mr. Golladay in connection with the  
12 third-party subpoena that you issued to  
13 Mr. Golladay?

14 MR. COMERFORD: No.

15 MR. IACONELLI: Did he tell you he,  
16 Mr. Colvin, was representing Mr. Golladay in  
17 connection with the third-party subpoena that you  
18 issued to Mr. Golladay in this matter?

19 MR. COMERFORD: He told me that he  
20 accepted service of the subpoena on behalf of  
21 Mr. Golladay pursuant to Mr. Golladay's direction,  
22 but he did not tell me that he was going to act as  
23 a lawyer for Mr. Golladay as a witness in this  
24 case.

25 MR. IACONELLI: Did he tell you or did he

1 identify for you any lawyer that to his knowledge  
2 was coming in to represent Mr. Golladay as his  
3 legal counsel in connection with the third-party  
4 subpoena that you issued Mr. Golladay?

5 MR. COMERFORD: We didn't talk about that.

6 MR. IACONEELLI: So he didn't tell you that  
7 Mr. Golladay was represented by a lawyer; is that  
8 what you're saying?

9 MR. COMERFORD: Yes.

10 MR. IACONEELLI: So going -- so when we  
11 started the deposition this morning, you were aware  
12 that no lawyer had entered an appearance or advised  
13 you as counsel for the party that issued this  
14 third-party fact witness subpoenaed that that  
15 particular lawyer was actually representing  
16 Mr. Golladay for this deposition that you noticed  
17 pursuant to a subpoena today; is that correct?

18 MR. COMERFORD: Yes.

19 MR. IACONEELLI: When are you going to  
20 provide all counsel with the emails that you  
21 referred to for the first time in your email to all  
22 counsel or specifically your email to Mr. Cooper  
23 last night at 9:30? You said you were going to do  
24 it today, but what time today are you going to be  
25 forwarding us all of your email communications

1 between Mr. Colvin and anyone in the firm and  
2 Mr. Colvin?

3 MR. COMERFORD: I'll do it within three  
4 hours.

5 MR. IACONELLI: So that would be by  
6 2:00 p.m. Eastern standard time, agree?

7 MR. COMERFORD: I will do it within three  
8 hours. I don't know what time that is.

9 MR. CLEMENTS: We'll stipulate that it's  
10 2:00.

11 MR. IACONELLI: We're going off the  
12 record.

13 MR. CLEMENTS: Are we done?

14 MR. COMERFORD: Do I get to ask questions  
15 of Mr. Iaconelli now?

16 MR. CLEMENTS: Iles can follow up.  
17 There's no more questions of anything anymore. Get  
18 us the emails whenever you can. If they don't come  
19 at 2:00, we won't sanction you or anything.

20 MR. COMERFORD: My question to  
21 Mr. Iaconelli, which I don't think has been  
22 answered yet, is, did he have any communications  
23 with Mr. Colvin whether or not Kenny Golladay was  
24 going to show up for the deposition today?

25 That's a question to you, Mr. Iaconelli.

1           MR. CLEMENTS: I think he hung up, but  
2 I'll answer it for him. It's what I said, it  
3 wasn't -- we had no idea. In other words,  
4 Mr. Colvin didn't know whether or not he was going  
5 to show up -- whatever he said. We were going by  
6 what you were telling us. I'll be honest with  
7 you -- I'll be honest with you, this has happened  
8 to me, okay? Third parties don't show up. But  
9 until you sent us the email last night -- was it  
10 last night or late afternoon -- we were  
11 anticipating Golladay to be here. I have a list of  
12 questions for him. We were going to ask him, too.  
13 We didn't get any exhibits from you. We were about  
14 to email you to ask for the exhibits. So obviously  
15 nothing was said to anybody that had anything to do  
16 with or -- that would have indicated to any of us  
17 that Golladay wasn't going to show up.

18           Now, personally, because I'm a huge  
19 football fan, I had massive suspicions. And if I  
20 was planning on taking the deposition of an  
21 athlete, I doubt if I would have scheduled it for  
22 the Thursday of a game day, an NFL athlete. The  
23 only worse time to schedule it would be the Sunday  
24 afternoon when he's playing. So if you try to get  
25 the deposition, you might want to try to arrange a

1 different time. We'll be amenable to that. If  
2 it's going to be a two or three-hour deposition,  
3 you might be able to do it in the evening or when  
4 these guys have off. I don't know when Detroit has  
5 off. Sometimes they have off on Monday, the NFL  
6 teams, veteran players might have some time. So I  
7 had a suspicion this was never going to happen, but  
8 nobody ever told us it wasn't going to happen. And  
9 usually what happens is when the person in your  
10 situation is taking the deposition and has not  
11 gotten confirmation that the witness is going to  
12 show up, you tell everybody and you adjourn it, so  
13 that's what my puzzlement is right now. This is  
14 normal litigation. This isn't all-out war,  
15 Mr. Comerford. This isn't some giant conspiracy  
16 over Golladay and whatever you think your going to  
17 get, \$2.1 million, and maybe you have it on a  
18 contingency fee, I don't know, but it's just normal  
19 litigation. This happens. People don't show up.  
20 So my only suggestion is that we -- right now this  
21 is like one of those lawyer meetings on TV where  
22 you have four or five lawyers at 4- or 500 bucks an  
23 hour. It's just not something me or my firm does,  
24 wasting time, wasting client's time like this. And  
25 all this stuff on the record is completely

1     ridiculous. You don't cross-examine a lawyer at a  
2     deposition, you don't -- it's unprofessional. It's  
3     completely unprofessional. I suggest that you  
4     would concentrate on maybe trying to procure the  
5     witness' attendance and tell us when the deposition  
6     is going to take place and maybe try to do it at a  
7     time that's convenient for the witness so we're not  
8     in this --

9             MR. COOPER: I think that's excellent  
10    advice. I think John probably never thought of any  
11    of that, and, therefore, it's been very helpful.  
12    Can we now say good afternoon?

13            MR. CLEMENTS: I'd like to. Are we done?

14            MR. COOPER: Are we done, John?

15            MR. COMERFORD: Yeah. I mean, we're now  
16    an hour and 11 minutes past the appointed time and  
17    the witness has not shown up, so I am going adjourn  
18    the deposition.

19            MR. COOPER: Thank you. Have a good day,  
20    everybody.

21            MR. COMERFORD: You, too.

22                               - - - - -

23            (The proceedings were concluded at 11:11 a.m.)

24                               - - - - -

25

1 C E R T I F I C A T E

2

STATE OF OHIO, )  
3 ) SS:  
WAYNE COUNTY, )

4

5

6 I, Stephanie R. Dean, Court Reporter and Notary  
Public within and for the State of Ohio, duly  
7 commissioned and qualified, do hereby certify that  
these proceedings were taken by me and reduced to  
8 Stenotype, afterwards prepared and produced by  
means of Computer-Aided Transcription and that the  
foregoing is a true and correct transcription of  
9 the proceedings so taken as aforesaid.

10 I do further certify that these  
proceedings were taken at the time and place in the  
foregoing caption specified.

11 I do further certify that I am not a  
relative, employee of or attorney for any party or  
12 counsel, or otherwise financially interested in  
this action.

13 I do further certify that I am not, nor is the  
court reporting firm with which I am affiliated,  
14 under a contract as defined in Civil Rule 28(D).

15 IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed my seal of office at Doylestown,  
Ohio on this 3rd day of December, 2020.

16


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Stephanie R. Dean, RPR

22

My commission expires August 30, 2025.

23

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